

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

JOSEPH FOLEY and MELISSA FOLEY)
Individually and as Personal Representatives of)
The Estate of JOSEPH PARKER FOLEY,)
Plaintiffs)

C.A. NO. 1:21-CV-10615-ADB

VS.)

JOHN BLAKE and DUXBURY PUBLIC)
SCHOOLS,)
Defendants)

**ANSWER OF DEFENDANT, JOHN BLAKE, COUNTERCLAIM AND DEMAND FOR
JURY TRIAL**

Now comes the defendant, John Blake, in the above numbered cause and for his answer states;

FIRST DEFENSE

The defendant states that the complaint fails to state a claim against the defendant, John Blake, upon which relief can be granted and therefore must be dismissed pursuant to F.R.C.P. 12(B)(6).

SECOND DEFENSE

As it relates to the first unnumbered paragraph in the plaintiffs' complaint, the defendant, Blake, admits that this action is brought by the plaintiffs in their representative capacity as representatives of the Estate of Joseph Parker Foley. Further, the defendant admits that Joseph Parker Foley was a student at the Duxbury Middle School and admits that he was employed as a physical education and health teacher at said school.

Further, the defendant, Blake, admits that Joseph Parker Foley died in 2020. As it relates to the balance of the narrative allegations set forth in the unnumbered paragraph of introduction in the plaintiff's complaint, the defendant denies the remainder of the allegations and calls upon the plaintiffs to prove the same.

PARTIES

The defendant, Blake, admits the allegations contained in paragraphs 1-6 of the plaintiff's complaint pertaining to the identification of the parties to this action.

FACTUAL ALLEGATIONS

The defendant, Blake, admits paragraphs 7-10 of the plaintiff's complaint.

The defendant, Blake, denies the allegations set forth in paragraphs 11 and 12 and calls upon the plaintiffs to prove the same.

The defendant, Blake, admits the allegations in paragraph 13 in that he stood as a teacher employed by the Duxbury Public Schools where Joseph Parker Foley was a student.

The defendant, Blake, denies the allegations set forth in paragraph 14 of the complaint and calls upon the plaintiffs to prove the same.

The defendant, Blake, admits the allegations set forth in paragraph 15.

The defendant, Blake, denies the allegations set forth in paragraphs 16-18 of the plaintiffs' complaint and calls upon the plaintiffs to prove the same.

The defendant, Blake, neither admits nor denies the allegations in paragraph 19 of the complaint as he is without personal knowledge of the veracity of the same.

The defendant, Blake, denies the allegations set forth in paragraphs 20-29 of the plaintiffs' complaint and calls upon them to prove the same.

The defendant, Blake, neither admits nor denies the allegations set forth in paragraph 30 of the complaint as he without personal knowledge of the veracity of the same.

The defendant, Blake, denies the allegations set forth in paragraphs 31-38 of the plaintiffs' complaint and calls upon the plaintiffs to prove the veracity of the same.

The defendant, Blake, admits that Foley's parents complained to the Duxbury Public Schools as well as the Massachusetts Department of Education as well as other public institutions and news media outlets.

The defendant, Blake, neither admits nor denies the allegations set forth in paragraph 40 as he is without personal knowledge of the veracity of the same. The defendant, Blake, admits that Attorney Ryan engaged in an investigation and her findings and conclusions are set forth in her report filed with the Duxbury Public Schools.

COUNT I
Assault and Battery

The defendant, Blake, does repeat and reallege his responses to paragraphs 1-40 above as if specifically set forth herein.

The defendant, Blake, denies the allegations set forth in paragraphs 42-44.

COUNT II

The defendant, Blake, does repeat and reallege his responses to paragraphs 1-40 above as if specifically set forth herein.

The defendant, Blake, neither admits nor denies the allegations set forth in paragraphs 46-48 as they are alleged statements of law and no answer is required.

The defendant, Blake, denies the allegations set forth in paragraphs 49 and 50 and calls upon the plaintiffs to prove the veracity of the same.

COUNT III
Violations of 42 U.S.C. §1983

The defendant, Blake, repeats and realleges his responses to paragraphs 1-40 of the plaintiffs' complaint as if specifically set forth herein.

The defendant, Blake, denies the allegations set forth in paragraphs 52-56 of the plaintiff's complaint and calls upon the plaintiffs to prove the veracity of the same.

COUNT IV
Violation of Title IX of the 1972 Education Act

No answer to the Count is required as such allegations pertain to co-defendant, Duxbury Public Schools.

COUNT V
Violation of M.G.L. Chapter 258 §2 (Tort Claims Act)

No answer is required to this Count by the defendant, Blake, as this Count and the allegations are directed at co-defendant, Duxbury Public Schools.

COUNT VI
Intentional Infliction of Emotional Distress

The defendant, Blake, repeats and realleges his responses to the plaintiff's complaint as if specifically set forth herein.

The defendant, Blake, denies the allegations set forth in paragraphs 73-78 of the plaintiffs' complaint and calls upon the plaintiffs to prove the veracity of the same.

COUNT VII
Negligent Infliction of Emotional Distress

The defendant, Blake, repeats and realleges his responses to the plaintiff's complaint as if specifically set forth herein.

The defendant, Blake, denies the allegations set forth in paragraphs 80-90 of the plaintiffs' complaint and calls upon the plaintiffs to prove the veracity of the same.

COUNT VIII

Loss of Consortium

The defendant, Blake, repeats and realleges his responses to the plaintiff's complaint as if specifically set forth herein.

The defendant, Blake, does not respond to paragraph 92 as it is a statement of law and no answer is required.

The defendant, Blake, denies the allegations set forth in paragraphs 93 and 94 of the plaintiffs' complaint.

COUNTERCLAIM

The defendant, John Blake, does state that the plaintiffs, Joseph Foley and Melissa Foley, both individually and as personal representatives of the Estate of Joseph Parker Foley, did intentionally and maliciously cause written correspondence accusing the defendant, Blake, of despicable acts well knowing the malicious and reckless nature of their writings which were distributed to public newspapers in a campaign of character assassination against John Blake as well as public institutions and departments in the Town of Duxbury.

The plaintiffs, Joseph Foley and Melissa Foley, both individually and in their capacity as personal representatives of the Estate of Joseph Parker Foley did willfully, intentionally and maliciously make statements to numerous people in the Town of Duxbury well knowing that they were untrue; said statements holding the plaintiff in counterclaim up to scorn, ridicule and loss of employment.

Said written statements were malicious and accused the defendant of crimes and constitute libel.

Said oral statements were malicious and accused the defendant of crimes and constitute slander.

Such conduct caused the defendant and his family emotional distress. The plaintiffs did intentionally and recklessly inflict emotional distress on the plaintiff in counterclaim.

The aforesaid conduct of the plaintiffs, individually and as personal representatives of the Estate of Joseph Parker Foley did therefore libel the plaintiff in counterclaim, slander the plaintiff in counterclaim and intentionally inflict emotional distress and caused irreparable damage to his reputation in the community.

As a result of the aforesaid conduct of the defendants in counterclaim the plaintiff was damaged economically, emotionally as well as destruction of his reputation, all to his loss.

WHEREFORE, the plaintiff in counterclaim demands judgment against the defendants in counterclaim for his damages and losses as set forth above.

DEMAND FOR JURY TRIAL

The defendant, John Blake, hereby demands a trial by jury on all claims against him.

John Blake,
By his attorney

/s/ Kevin J. Reddington

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CERTIFICATE OF SERVICE

I, Kevin J. Reddington, Esq., hereby certify that the foregoing, filed through the Electronic Case Filing System, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and that a paper copy shall be served upon those indicated as non-registered participants on May 7, 2021.

ANSWER OF DEFENDANT, JOHN BLAKE, COUNTERCLAIM AND DEMAND FOR JURY TRIAL

/s/ Kevin J. Reddington

Kevin J. Reddington, Esq.